

REMARKS

Claims 2-24 and 26-31 stand rejected under 35 U.S.C. 112, second paragraph, as indefinite. The office action states that “[t]he omitted structural cooperative relationships are: the DC voltage output and how it controls the operation of the heating element.”

The examiner’s attention is directed to the last two lines of each of the independent claims (Nos. 29, 30 and 31) which recites, as stated in claim 1, a “controller coupled to the DC voltage output to receive power from the power supply, the controller being configured to control the operation of the heating element.” Thus, it is the controller that controls operation of the heating element. The voltage does not control the operation of the heating element, the controller controls operation of the heating element. Accordingly, the claims are not indefinite. Withdrawal of the rejection is, respectfully, requested.

The office action states that the claim 3 limitation “a processor that signals the switch to close the switch” is indefinite. Claim 3 has been amended to clarify this phrase. Claim 3 recites that the controller comprises a processor that controls the switch. This is clear and avoids the rejection of claim 3 on this basis.

Amendments have been made to claims 29, 30 and 31 by adding “fixed” to further clarify the DC voltage output.

Claims 29-31 stand rejected over Kimura (U.S. Patent No. 4,886,955). As stated in the office action (at page 3), Kimura discloses the power supply (capacitor 39) having a DC voltage output of substantially a predetermined value regardless of the AC voltage within the range of AC voltages. This is not correct. As seen in Fig. 2 of Kimura the value of the capacitor 39 and resistor 36 do not change. If the AC source changes (e.g., from domestic to foreign voltage) the voltage supplied by the capacitor will change. Thus, capacitor 39 is not a fixed DC voltage output of substantially a predetermined value regardless of whether the input is coupled to the domestic AC voltage or the foreign AC voltage as recited in present claims 29-31. Stated differently, if AC source 35 changes from domestic to foreign the DC voltage output provided by capacitor 39 will change, it will not remain fixed and it does not provide an output of substantially a predetermined value regardless of whether the input is coupled to the domestic AC voltage or the foreign AC voltage. For at least these reasons, Kimura does not anticipate claims 29-31. Withdrawal of the rejection is, respectfully, requested.

It is noted that at page 4 of the office action it is urged that (as to claims 29 and 31)

the apparatus being operable by a supply voltage that is either a domestic AC voltage or a foreign AC voltage is being deemed intended use, it has been held that a recitation with respect to the manner in which a claim apparatus/process is intended to be employed does not differentiate the claimed apparatus/process from a prior art apparatus/process satisfying the claimed limitations.

Claim 31 is amended to clarify recitation of a power supply having an input that couples directly to a domestic AC voltage when the beverage heating apparatus is operated domestically and couples directly to a foreign AC voltage when the beverage heating apparatus is operated in a foreign country. Thus the power supply has the capability that the input couples to a domestic AC voltage or a foreign AC voltage. This capability is in combination with the limitation of the power supply having a fixed DC voltage output of substantially a predetermined value regardless of whether the input is coupled to the domestic AC voltage or the foreign AC voltage. This is not intended use, this is a structural capability not taught or suggested by the prior art of record.

In view of the above amendments and comments it is suggested that the application with claims 2-31 is in condition for allowance and such action is, respectfully, requested.

If there is any issue remaining to be resolved, the examiner is invited to telephone the undersigned so that resolution can be promptly effected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 (27726-99611).

Respectfully submitted,

BARNES & THORNBURG LLP



Richard B. Lazarus

Reg. No. 48,215

Tel. No. (202) 371-6348